

Limitations Upon Assistance to or for Cambodia

The Differences

OGC HAS REVIEWED.

The Senate version would impose a ceiling of \$341 million on funds obligated or expended in FY 72 upon assistance to or for Cambodia similar to the ceiling relating to Laos which the Congress has just enacted in Section 505 of H.R. 8687, the Defense Procurement Authorization bill - PL 92-156 approved November 17, 1971.

The House version contains no comparable provision.

Executive Branch Position:

The Executive Branch request for FY 72 for Cambodia includes \$200 million for military assistance, \$110 million for supporting assistance, \$20 million under P.L. 480, and proposes to grant excess defense articles valued at \$11 million, totaling \$341 million. The Executive Branch can therefore accept the proposed \$341 million ceiling upon assistance programs to Cambodia, as it is understood that the sponsors of this proposed section have intended that it not restrict or limit the scope of activities other than those programs itemized above (see Cong. Record, Oct. 28, 1971, S17078-S17087, and Oct. 29, 1971, S17170-S17175). However, the report on S-2819 by the Senate Foreign Relations Committee states:

"By setting an absolute ceiling on expenditures in Cambodia, the Committee means to include all Executive Branch expenditures except those relating to combat air operations. The limitations would thus apply to the military assistance program, supporting assistance, excess defense articles, P.L. 480, CIA operations, the administrative costs of the various United States Government departments and agencies who engage in activities to, in, for or on behalf of Cambodia and, as in the similar provision relating to Laos included in the Defense Authorization bill, H.R. 8687, the costs to the United States of South Vietnamese ground operations in Cambodia." (H. Rep. No. 92-431, p. 15)

This statement in the Senate Foreign Relations Committee Report conflicts with the express intentions of the sponsors not to restrict in any way other unrelated on-going activities. As the Committee knows approximately five NVA/VC divisions are in base areas in Cambodia just over the South Vietnamese border. South Vietnamese military operations in this area are designed primarily to reduce the threat which these enemy divisions pose to South Vietnamese security. This being the case, we believe that it would be wrong to deduct the cost of these operations from our Cambodian assistance programs since the primary purpose of these ARVN operations is to protect Vietnamization and the rate at which we can withdraw our troops from South Vietnam, rather than assistance to Cambodia. The Executive Branch recommends that Section 655 be amended so as to clarify the exclusion of South Vietnamese military operations in Cambodia by adding on page 12, line 15 of S. 2819 after Cambodia, "or to the obligation of funds attributable to the operations of the Armed Forces of the Republic of Vietnam in Cambodia". The statement in the Committee Report also conflicts with the interpretation of similar language relating to Laos by the Committee of Conference on H.R. 8789 as follows:

"The conferees intend that the \$350 million limitation should include all assistance-related activities in Laos. However, the conferees wish to make it understood that it is not the intent to place a ceiling on, or reduce, funds available for vital non-assistance-related activities in programs which must be carried on irrespective of assistance-related operations in Laos, such as the normal expenses incurred by the State Department in the operation of its embassy and such normal and usual expenses of the embassy as would be incurred in peacetime in the absence of any military, paramilitary, or economic assistance programs of any kind." (H.Rep. No. 92-618, p.24)

Inasmuch as the latter interpretation represents the views of both the Senate and of the House of Representatives, it must be considered authoritative, and the Executive Branch requests that an identical interpretation be set forth in the Conference Committee's report on S. 2819.

The Laos ceiling was originally proposed in terms of "funds obligated or expended", but was amended by the sponsor so that it was a ceiling on expenditures solely, at the request of the Executive Branch. The nature of the

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operations in Laos lends itself to fiscal control of expenditures, rather than of obligations. The contrary is true, however, of our assistance programs for Cambodia. The Military Assistance Program has always been controlled on a program basis whenever the Congress decided some type of control or restriction was appropriate. The Executive Branch requests that throughout proposed section 655 there be deleted the words "or expended," "and expenditure," "or expenditure," and that in subsection (f) the word "obligated" be substituted in place of "expended" wherever it appears.

The Executive Branch requests that subsection (c) of proposed section 655 be amended so that it reads:

"(c) No funds may be obligated for any of the purposes described in subsection (a) of this section in, to, for, or on behalf of Cambodia in any fiscal year beginning after June 30, 1972, in any amount in excess of the amount specified by law for any such purpose during such fiscal year."

This amendment retains the concept of the subsection to prohibit the obligation of funds over the ceiling which this section establishes. The way the subsection is drafted in the Senate-passed bill, however, seems to imply erroneously that assistance is authorized on a country-by-country basis. Indeed, subsection (a) itself does not "authorize" the obligation of \$341 million for Cambodia in FY 72; it is simply a ceiling. Furthermore, unless amended as above, subsection (c) would create serious CRA problems in the future.

RECOMMENDATIONS:

1. The section 655 be amended by adding the following language to subsection (d) at line 15 on page 12 after Cambodia, "or ~~to the expenditure of funds~~ attributable to the operations of the Armed Forces of the Republic of Vietnam in Cambodia.

2. That the report of the Conference Committee state: "Section 655 is intended to parallel the scope of Section 505 of H.R. 8687 on Laos, as interpreted by the Committee of Conference thereon in its report of November 5, 1971, and the provisions of Section 655 are consequently not intended to place a ceiling on, or reduce, the obligation of funds for vital non-assistance-related activities which must be carried on irrespective of assistance-related operations in Cambodia, such as the normal expenses incurred by the State Department in the operation of its embassy and such normal and usual expenses of the embassy as would be incurred in peacetime in absence of any military or economic assistance programs of any kind."

3. That Section 655 be drafted in terms solely of a ceiling on obligations, deleting the words "or expended," etc., and substituting "obligated" for "expended" in subsection (f).

4. That subsection (c) be amended to read: "(c) No funds may be obligated for any of the purposes described in subsection (a) of this section, to, for, or on behalf of Cambodia in any fiscal year beginning after June 30, 1972, in any amount in excess of the amount specified by law for any such purpose during such fiscal year."

OLC 72-0059

MEMORANDUM FOR: OLC

g Enclosed is a copy that I received from one of my State colleagues of the "Executive Branch position" (as drafted by State) on Section 655 of S.2819, concerning limitations on assistance to or for Cambodia.

I have marked on the first page the references to the Congressional record, which, according to my State interlocutor, cover the Symington remarks on the floor that I mentioned to you yesterday. *SL*

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18 Jan 72

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FORM NO. 101 REPLACES FORM 10-101
1 AUG 54 WHICH MAY BE USED.

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ACTION		DIRECT REPLY	PREPARE REPLY
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CONCURRENCE		INFORMATION	SIGNATURE
Remarks:			
<p>Attached is material forwarded to me by <div></div> a followup to my Journal items of 14 and 17 January re State's position on the Svrmington Cambodia amendment. According to <div></div> State is following the rather curious rationale that since the matter was brought to the attention of the Congress and the Congress did not take issue with the State recommendations that therefore they were acceptable. Needless to say, I prefer our rationale. 25X1A <i>D</i></p> <div></div>			
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FROM: NAME, ADDRESS AND PHONE NO.			DATE
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